



State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-2900 FAX (603) 271-2456



December 12, 2003

Cedar A Inc.  
ATTN: Mike Abdaugh  
134 North Broadway Street  
Salem, New Hampshire 03079

**NOTICE OF NON-COMPLIANCE and  
PERMIT REVOCATION – NCPR # 03-022**

RE SALEM, ONE STOP RETAIL SHOPPE, EXISTING UNDERGROUND STORAGE TANK  
FACILITY (UST #A-0110413) (DES #199605041)

Dear Mr. Abdaugh

The New Hampshire Department of Environmental Services ("DES") is hereby notifying you that the above-referenced facility, located at 134 North Broadway Street, Salem, NH is not in compliance with New Hampshire Code of Administrative Rules Env-Wm 1401, regulating Underground Storage Facilities. On July 8, 2003 a DES inspector conducted a compliance audit at the facility. A written document, describing the deficiencies was provided to the facility representative. This document required the facility be returned to compliance within 45 days, and DES be notified of the corrective measures taken. Compliance has not been achieved. **Failure to achieve compliance with the following deficiencies within 90 days from the date of this Notice of Non-Compliance and Permit Revocation ("Notice") will result in revocation of your Permit-to-Operate on March 11, 2004. This letter contains important compliance and procedural information. Please read it carefully.**

Env-Wm 1401.07 Permit-to-Operate

Env-Wm 1401.07 requires that the permit-to-operate be permanently affixed on the facility premises and visible to a division inspector. The field inspection revealed that the permit was not posted. The permit-to-operate shall be posted on the facility premises and verification in writing that the permit has been posted shall be provided to DES.

2. Env-Wm 1401.21 Tank Standards for New Underground Storage Systems

Env-Wm 1401.21 requires a UST system completed certificate be permanently affixed and visible to the division inspector at the facility premises for all new UST systems. The division inspector could not document a certificate posting. A certificate shall be posted at the facility and verification in writing that the certificate has been posted shall be provided to DES.

3. Env-Wm 1401.11 Inventory Monitoring

Env-Wm 1401.11 requires inventory monitoring be conducted and inventory records be maintained on all on-premise use heating oil and emergency generator systems without secondary containment and leak monitoring for both tank and piping. An annual

tightness test may be substituted. DES has determined that inventory monitoring was not being conducted. Inventory monitoring or tightness test results for the 4,000-gallon heating oil UST system (Tank 9) shall be provided to DES.

4. Env-Wm 1401.25 Spill Containment and Overfill Protection

Env-Wm 1401.25 requires overfill protection devices be installed and maintained in good working order on all UST systems. DES has determined that the overfill protection device for Tank 9 was not installed at the required 90% alert or 95% shut off level. The overfill protection device for Tank 9 shall be installed at the required 90% alert or 95% shut off level.

5. Env-Wm 1401.26 Leak Monitoring for New Tanks and Env-Wm 1401.31 Operation of Leak Monitoring Equipment

Env-Wm 1401.26 and/or Env-Wm 1401.31 require that a leak monitor for double-wall tank systems continuously operate. The leak monitoring equipment and devices shall be tested annually for proper operation in accordance with manufacturer's requirements. DES has determined that the leak monitor for the tank system was not continuously operating. The leak monitor's power light needs repair and one sensor will not reset. DES has also determined that the annual test of the leak monitor for the tank system had not been performed. The leak monitoring equipment and devices shall be tested. Leak monitor replacement or maintenance results or indication that the systems have been temporarily closed shall be provided to DES.

6. Env-Wm 1401.27 Leak Monitoring for New Underground Piping Systems and Env-Wm 1401.31 Operation of Leak Monitoring Equipment

Env-Wm 1401.27 and/or Env-Wm 1401.31 require leak monitoring for piping to be installed and continuously operate. At the time of the inspection DES could not access the sumps on the special and diesel UST systems. Verification that the sump sensors are on the bottom, that no liquid is in the sumps, that the sump sensors are working properly, and that the secondary pipes are open to the sumps shall be provided to DES.

7. Env-Wm 1401.30 Release Detection for Piping

Env-1401.30 requires records be maintained for line leak detector tests. The DES has determined that the passing annual line leak detector tests for the three 8,000-gallon UST systems (Tanks 6, 7, and 8) have not been performed. A passing annual line leak detector test for Tanks 6, 7, and 8 shall be provided the DES.

8. Env-Wm 1401.33 Corrosion Protection for Piping

Env-Wm 1401.33 requires corrosion protection be installed on regulated piping prior to December 22, 1998. DES has determined that liquid was present in the secondary piping of Tank 9. The liquid needs to be removed or corrosion (cathodic) protection must be installed for the piping. Verification that the liquid from the secondary piping of Tank 9 has been removed or a contract has been signed with a company to install cathodic protection to the piping of Tank 9 shall be submitted to DES.

In addition, Env-Wm 1401.10(a) requires owners of underground storage facilities for oil to maintain financial responsibility for costs associated with cleanup of releases from systems, the implementation of corrective measures, and compensation for third party damages in the amount equal to or greater than \$1,000,000 per occurrence. Env-Wm 1401.10(c) provides that the financial responsibility requirement may be satisfied if the owner is eligible for reimbursement of costs associated with cleanup of releases from the Oil Discharge and Disposal Cleanup Fund ("the Fund"). Eligibility for the Fund is contingent upon achieving and maintaining compliance with statutory (RSA 146-C) and regulatory (Env-Wm 1401) requirement. This facility has not achieved compliance, consequently, the Fund is not available to you as a financial responsibility mechanism.

In accordance with RSA 146-C:4 and Env-Wm 1401.07(a), no person shall own or operate an underground storage facility without a permit issued by DES. Within 30 days from the date of the permit revocation the facility shall be closed in accordance with Env-Wm 1401.18 for permanent closure.

Based on the compliance deficiencies described above, DES believes this facility poses a potential substantial threat to the surface and groundwater of the state. Therefore, in accordance with RSA 146-C:4 and Env-Wm 1401.09, if compliance as requested above is not achieved within ninety (90) days of the date of this Notice your Permit-to-Operate (UST Permit #0110413) shall be revoked effective **March 11, 2004**. Within thirty (30) days of the date of permit revocation all regulated substances must be removed from the UST systems at this facility. If the facility achieves compliance during the ninety (90) day period, it is necessary that documentation be submitted to DES verifying that compliance has been attained.

You have the right to a hearing to contest these allegations before the proposed license action is taken. The hearing would be a formal adjudicative proceeding pursuant to RSA 541-A:31, at which you and any witnesses you may call would have the opportunity to present testimony and evidence as to why the proposed action should not be taken. All testimony at the hearing would be under oath and would be subject to cross-examination. If you wish to have a hearing, one will be scheduled promptly.

RSA 541-A:31 III(e) provides that you have the right to have an attorney present to represent yourself at your own expense. If the Permit is an occupational license, under RSA 541-A:31, III(f) you have the right to request DES to provide a certified shorthand court reporter at your own expense. **Such request must be submitted in writing at least 10 days prior to the proceeding.**

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You may waive your right to a hearing. If you waive the hearing, DES is prepared to proceed with the actions as stated above. You should notify DES of your decision by filling out and returning the enclosed form.

If there are any questions concerning the above, I may be contacted at the Waste Management Division at (603) 271-1165.

Sincerely,



Lynn A. Woodard, P.E.

Supervisor

Oil Compliance and Initial Response Section

CERTIFIED MAIL # 7000 1670 0000 0585 2108

cc: Michael P. Nolin, Commissioner  
Mark Harbaugh, DES Legal Unit  
Fred McGarry, P.E., Chief Engineer, WMD  
George Lombardo, P.E., WMD  
Tom Beaulieu, WMD  
Health Officer. Town of Salem